

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR  
**HOUSE BILL NO. 1524**  
**96TH GENERAL ASSEMBLY**

5554L.05C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal section 228.368, RSMo, and to enact in lieu thereof four new sections relating to the improvement and maintenance of private roads.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 228.368, RSMo, is repealed and four new sections enacted in lieu  
2 thereof, to be known as sections 228.341, 228.368, 228.369, and 228.374, to read as follows:

**228.341. For purposes of sections 228.341 to 228.374, "private road" with regard**  
**2 to a proceeding to obtain a maintenance order means any private road established under**  
**3 this chapter or any easement of access, regardless of how created, which provides a means**  
**4 of ingress and egress by motor vehicle for any owner or owners of residences from such**  
**5 homes to a public road. A private road does not include any road owned by the United**  
**6 States or any agency or instrumentality thereof, or the state of Missouri, or any county,**  
**7 municipality, political subdivision, special district, instrumentality, or agency of the state**  
**8 of Missouri. Nothing in sections 228.341 to 228.374 shall be deemed to apply to any road**  
**9 created by or included in any recorded plat referencing or referenced in an indenture or**  
**10 declaration creating an owner's association, regardless of whether such road is designated**  
**11 as a common element. Nothing in sections 228.341 to 228.374 shall be deemed to apply to**  
**12 any land or property owned or operated by any railroad regulated by the Federal Railroad**  
**13 Administration.**

228.368. The costs of the proceedings **to establish or widen a private road** incurred  
2 up to and including the filing of the commissioners' report shall be paid by the plaintiff; and the  
3 court, as to any costs incurred in proceedings subsequent thereto, including the costs of the jury  
4 trial, may make such order as in its discretion may be deemed just, **including, in the case of a**  
5 **proceeding to obtain a maintenance order, assessing the costs to all benefitted homeowners.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

228.369. 1. For any private road subject to the use of more than one homeowner,  
2 in the absence of a prior order or written agreement for the maintenance of the private  
3 road, including covenants contained in deeds or state or local permits providing for the  
4 maintenance of a private road, when adjoining homeowners who are benefitted by the use  
5 of an abutting private road, or homeowners who have an easement to use a private road,  
6 collectively owners or benefitted owners are unable to agree in writing upon a plan of  
7 maintenance for the maintenance, repair, or improvement of the private road and  
8 including the assessment and apportionment of costs for the plan of maintenance, one or  
9 more of the owners may petition the circuit court for an order establishing a plan of  
10 maintenance.

11 2. The cost of a plan of maintenance for a private road shall be apportioned among  
12 the owners of residences abutting the private road and holders of easements to use the  
13 private road, with the cost apportioned commensurate with the use and benefit to  
14 residences benefitted by the access, as mutually agreed by the benefitted homeowners or  
15 as ordered by the court with such method of apportionment as agreed by the homeowners  
16 or ordered by the court, including, but not limited to, equal division, or proportionate to  
17 the residential assessed value, or to front footage, or to usage or benefit.

18 3. The court may implement the same procedures to order and subsequently  
19 determine a plan of maintenance for a private road as provided in this chapter for  
20 establishing or widening a private road, including the apportionment and compensation  
21 of disinterested commissioners to determine the plan and the apportionment of costs.

22 4. Where the homeowners who are benefitted by the private road are not able to  
23 agree upon the designation of a supervisor to complete the plan of maintenance, the  
24 commissioners appointed by the court shall designate a supervisor who shall be  
25 compensated for his or her services in the same manner as the commissioners.

26 5. Any agreement executed by all the homeowners, or final order approving, a plan  
27 of maintenance for a private road shall be recorded with the county recorder of deeds.

28 6. One or more adjoining homeowners or holders of any easement to use a private  
29 road may bring an action to enforce the plan of maintenance for a private road, whether  
30 as mutually agreed or as ordered by the court.

228.374. 1. A prior agreement or court order establishing a plan of maintenance  
2 may be amended or modified and may be restated at any time by a recorded agreement  
3 signed by all the homeowners or other benefitted owners.

4 2. No court proceeding under section 228.369 to amend, modify, or restate a plan  
5 of maintenance may be filed sooner than seven years from the entry of a prior order,  
6 except upon a prima facie showing that the real property benefitted by the private road has

- 7 **been developed or divided in a manner rendering the plan of maintenance obsolete or**
- 8 **showing that the existing apportionment of the use and benefit to residences benefitted by**
- 9 **the access to the private road is no longer equitable.**

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